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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/767,416

01/22/2001

Derek J. Whiteside

10007090-1

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12/19/2003

HEWLETT-PACKARD COMPANY

Intellectual Property Administration

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EXAMINER

DUNCAN, MARC M

ART UNIT

PAPER NUMBER

2113

DATE MAILED: 12/19/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

2

Office Action Summary

Application No.

09/767,416

Applicant(s)

WHITESIDE ET AL.

Examiner

Marc M Duncan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-10,12-16,18,19 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-10,12-16,18,19 and 21-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 1, 9, 18, 19, 25 and 29 is withdrawn in view of the newly discovered reference(s) to Fawcett (077). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3, 6, 7, 8, 18, 19, 21, 22, 25, 26, 27, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawcett (077) in view of Dell.

Regarding claim 1:

Fawcett (077) teaches receiving an identifier from an input device in col. 2 lines 53-56.

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Fawcett (077) teaches transmitting said identifier to a network location, said identifier being an attribute of a particular computing device in col. 2 lines 53-56.

Fawcett (077) teaches receiving recovery software from said network location, said recovery software including an installed software package in col. 2 lines 40-42.

Fawcett (077) does not explicitly teach the software package installed during manufacturing. Fawcett does, however, teach software installed on a user's computer system.

Dell teaches a software package installed during manufacturing of a computing device in the entire document.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the installed software of Fawcett (077) with the teaching by Dell of installing software during manufacturing.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Fawcett teaches that software is pre-installed on a user's computer. Dell teaches that such pre-installation occurs at manufacturing.

Regarding claim 3:

Fawcett (077) teaches the input device being a keyboard in Fig. 1.

Regarding claim 6:

Fawcett (077) teaches the network location is a web site available by way of an interface to the World Wide Web in col. 2 lines 27-29.

Regarding claim 7:

Dell teaches the software package including customized software that is not part of a standard software package installed on a model of computing device in page 1 of the document.

Regarding claim 8:

Fawcett (077) teaches receiving software that includes an updated version of the software package installed during manufacturing of said computing device in col. 2 lines 40-42.

Regarding claim 18:

The claim is rejected as being the computer program product for performing the method of claim 1.

Regarding claim 19:

The claim is rejected as being the apparatus performing the method of claim 1.

Regarding claim 21:

The claim is rejected as being the apparatus performing the method of claim 3.

Regarding claim 22:

Fawcett (077) teaches a disk drive for storing said identifier in Fig. 1.

Regarding claim 25:

The claim is rejected as being electrical signals encoded with the method of claim 1.

Regarding claim 26:

The claim is rejected as being electrical signals encoded with the method of claim 6.

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Regarding claim 27:

The claim is rejected as being electrical signals encoded with the method of claim 7.

Regarding claim 28:

The claim is rejected as being electrical signals encoded with the method of claim 8.

Regarding claim 29:

The teachings of Fawcett (077) are outlined above.

Fawcett (077) further teaches receiving, by way of a server positioned at the network location, an identifier that originated at said computing device in col. 2 lines 56-68.

Fawcett (077) further teaches the server determining, based on said identifier, a software package previously installed on said computing device during manufacturing of said computing device in col. 2 lines 30-32.

Claims 5, 9, 10, 12, 13, 14, 15, 16 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawcett (077) and Dell as applied to claims 1 and 19 above, and further in view of Arnold et al.

Regarding claims 5, 9 and 23:

The teachings of Fawcett (077) are outlined above.

Fawcett (077) does not explicitly teach an identifier being a serial number of a computing device. Fawcett (077) does, however, teach an identifier comprising access information.

Arnold explicitly teaches an identifier being a serial number of a computing device in Fig. 3.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the serial number teaching of Arnold with the access information of Fawcett (077).

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Arnold teaches that the serial number is a piece of readily available relatively unique identifying information that can be used to control access rights, a need expressed by Fawcett (077).

Regarding claim 10:

Fawcett (077) teaches the network interface being an interface to the World Wide Web in col. 2 lines 27-29.

Regarding claim 12:

Dell teaches the software package including customized software that is not part of a standard software package installed on a model of computing device in page 1 of the document.

Regarding claim 13:

Fawcett (077) teaches assembling the software package previously installed on said computing device during said manufacturing in col. 2 lines 40-42.

Regarding claim 14:

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Fawcett (077) teaches transmitting the software package previously installed on said computing device to said computing device by way of said network interface in col. 2 lines 40-45.

Regarding claim 15:

Fawcett (077) teaches determining if an updated version of said software package previously installed on said computing device is available in col. 2 lines 40-45.

Regarding claim 16:

Fawcett (077) teaches transmitting said updated version of said software package to said computing device in col. 2 lines 40-45.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art not relied upon contains elements of the instant claims and/or represents a current state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc M Duncan whose telephone number is 703-305-4622. The examiner can normally be reached on M-T and TH-F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 703-305-9713. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

md


ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100